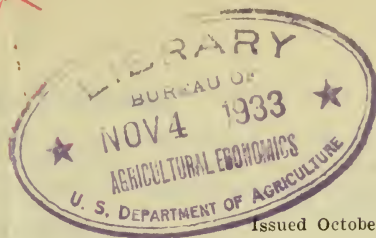


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Issued October 1933

## United States Department of Agriculture

BUREAU OF AGRICULTURAL ECONOMICS

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 143

### GRADES, REQUIREMENTS, AND REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR CARRYING OUT THE PROVISIONS OF THE EXPORT APPLE AND PEAR ACT OF JUNE 10, 1933 (48 STAT. 123)

UNITED STATES DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by "An act to promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes", approved June 10, 1933 (Public, No. 39, 73d Cong.), making it unlawful to ship or offer for shipment or to transport or receive for transportation to any foreign destination any apples or pears in packages not accompanied by a certificate authorized by the Secretary of Agriculture showing that the apples or pears are of a Federal or State grade which meets the minimum of quality established by the Secretary of Agriculture for shipment in export, and that they comply with the requirements prescribed by the regulations under said act, I, Henry A. Wallace, Secretary of Agriculture, do hereby prescribe the following grades, requirements, and regulations which shall supersede those heretofore issued and shall be effective on and after September 1, 1933:

#### Regulation 1. Definitions

Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

The following terms included in the act shall for the purpose of these regulations be construed to mean:

*Act.*—An act approved June 10, 1933 (Public, No. 39, 73d Cong.), entitled "An act to promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes", and which will be referred to by the Department as the Export Apple and Pear Act.

*Person.*—Individuals, partnerships, corporations, and associations.

*Carriers.*—All common and private carriers, including trucks, vessels, tramp and chartered steamers whether carrying for hire or otherwise.

*Secretary.*—The Secretary of Agriculture of the United States.

*Foreign commerce.*—Commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

*Apples and/or pears.*—Fresh whole apples or pears, whether or not they have been in storage.

## Regulation 2. Administration

The Chief or Acting Chief of the Bureau of Agricultural Economics shall perform for and under the supervision of the Secretary such duties as the Secretary may require in enforcing the provisions of the act and of these regulations.

### Regulation 3

The regulations of the Secretary under the farm products inspection law for the inspection and certification of fresh fruits and vegetables are hereby adopted for the purposes of the act except when in conflict with specific regulations herein set forth, and all persons authorized to issue certificates of grade and/or condition under the farm products inspection law are authorized to issue the certificates required for apples and/or pears under the act. Certificates issued under the act and these regulations shall be identical with, and a part of, those issued under the farm products inspection law (Annual Agricultural Appropriation Act).

Farm products inspection certificates bearing in prominent letters across the face the words "Export Form Certificate" shall be used only for apples and/or pears inspected and certified in accordance with the provisions of the act, and shall include the following statement either printed or typed: "The apples and/or pears covered by this certificate meet the requirements of the Export Apple and Pear Act": *Provided*, That pending the issuance of this certificate carriers other than vessels, tramp and chartered steamers may accept through bills of lading to a foreign country or bills of lading marked for export upon receipt of a memorandum from a duly authorized inspector stating that "the apples and/or pears covered by this memorandum meet the requirements of the Export Apple and Pear Act." If the fruit is to be analyzed for spray residues and the chemist's report is not available at the time the inspection for grade is finished, the inspector may, if practicable, issue the above memorandum subject to being recalled and vacated within 48 hours should the chemical analysis show that the fruit does not comply with the tolerances for spray residues established under the Food and Drugs Act of June 30, 1906.

### Regulation 4

When shipments, except as provided under regulation 13, are made to foreign countries under a through bill of lading or under a bill of lading marked for export, the shipper shall secure inspection and deliver to the local agent of the carrier a copy of the Export Form Certificate or memorandum covering such shipment. The local agent shall attach the certificate or memorandum to the waybill or make a notation on the waybill that the fruit has been inspected and that such export certificate or memorandum has been issued.

Inspection of shipments not under through bill of lading to a foreign country or not under bill of lading marked for export may be obtained at point of origin if inspection is available, or at any convenient point en route or at destination.

### Regulation 5

Any person operating any vessel of any kind shall within 72 hours after sailing from any port send to the Secretary at Washington, D.C., a list of shipments of apples and/or pears on board such vessel which are not accompanied by Export Form Certificates and shall give all particulars with reference thereto, including destination, quantity, description, marks, names, and addresses of shippers and consignees and names of railroads or persons delivering such shipments to such vessels, with car numbers or other mean of identification. The furnishing of such information shall not relieve such person from liability under the act if in the judgment of the Secretary the facts warrant prosecution.

### Regulation 6

Special certificates to comply with the requirements of foreign countries shall, as authorized by section 3 of the act, be issued as a part of, or in addition to, the farm-products inspection certificates. A reasonable additional fee may be charged when the inspection necessary for such certificates requires additional



time or an examination or certification at some time or place other than that at which the original inspection was made.

#### Regulation 7

A certificate issued under this act and these regulations does not excuse any person for failure to comply with all regulatory laws or requirements applicable to the products shipped. No certificate shall be issued under this act and these regulations except upon a showing satisfactory to the Chief of the Bureau of Agricultural Economics that the apples and/or pears comply with the tolerances for spray residues established under the Food and Drugs Act of June 30, 1906.

#### Regulation 8

Minimum quality requirements for shipments in export:

(a) Any lot of apples must meet each minimum requirement of the United States Utility or United States Utility Early grade for apples subject to the tolerances for these grades except that apples shall not contain apple maggots and not more than 2 percent by count may have apple maggot injury and not more than 2 percent may be infested with San Jose scale.

(b) Any lot of pears must meet each minimum requirement of the United States No. 2 grade for pears subject to the tolerances for this grade except that pears shall not contain apple maggots and not more than 2 percent by count may have apple-maggot injury and not more than 2 percent may be infested with San Jose scale.

(c) Any lot of apples or pears shipped to a trans-Pacific port, except as provided in regulation 13, need not comply with the maturity standards of these grades if the packages are conspicuously marked or branded with the words "Immature fruit."

#### Regulation 9

Packing and marking requirements for shipments in export:

(a) The packages shall be plainly and conspicuously marked with (1) the name and address of the grower or packer; (2) the variety; (3) the grade names not lower than those specified in regulation 5; and (4) the numerical count or the minimum size.

(b) Each package shall be packed so that the apples and/or pears in the shown face shall be reasonably representative in size, color, and quality of the contents of the package.

#### Regulation 10

The fee for a certificate issued under the act shall be the fee charged at that time and place where the certificate is issued for an inspection made under the farm products inspection law: *Provided*, That when any lot of apples and/or pears arrives at any terminal market or point of export covered by a farm-products inspection certificate which shows that the fruit meets the requirements of the act a certificate complying with the terms of the act may be substituted for such farm-products inspection certificate or the same may be stamped with the words "Export Form Certificate" for a fee of \$1.

#### Regulation 11

Upon receipt of complaint from any person alleging that any apples and/or pears have been shipped in foreign commerce in violation of any of the provisions of the act, the Secretary shall cause such investigation of the facts to be made as he deems proper. If in his opinion there has been a violation of the act, he shall inform the party accused of the nature of the charges against him and of the specific cases in which violation of the act is charged. He shall give the party accused an opportunity for a hearing not less than 10 days after notice of such hearing has been served upon such person. At such hearing the person complained of shall be entitled to be present in person or by counsel and submit evidence and arguments in his behalf. Any order issued by the Secretary to withhold the issuance of certificates from such person as provided in section 6 of the act shall be effective from the date of its service upon the party found to have been guilty of such violation of the terms of the act.

Such order shall state the inclusive dates within which it is to remain in effect, and during this period no person employed or licensed by the Secretary as an inspector for purposes of the farm products inspection law shall issue to such person any certificate as to compliance with the provisions of the act.

#### Regulation 12

Service of any notice or order required by the act or prescribed by these regulations shall be deemed sufficient if made by registered mail or personally upon the person served. Service so made upon any member of a partnership or any officer of an association or corporation shall be sufficient. If it is impossible to make personal service upon the party named in the notice or order, service may be made by leaving a copy thereof with an employee or agent at such party's usual place of business or abode. If the party so named is a partnership, association, or corporation, service may be made likewise with respect to any member of the partnership or any officer, employee, or agent of the association or corporation.

#### Regulation 13

Any shipment of apples and/or pears not taking the minimum carload freight rate, or any shipment of less than 400 bushels in packages shipped over highways or by water, is hereby defined as a less-than-a-carload quantity for the purposes of the act. Such shipments to Canada, Bahamas or the Bermuda Islands, Cuba, the West Indies, Mexico, or any country in Central America or South America except Argentina, or to any African port not on the Mediterranean Sea, or to any trans-Pacific port, need not comply with the requirements of the act: *Provided*, That shipments of less than 200 pounds gross weight to any foreign destination shall not be subject to the provisions of this act.

In witness whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto, in the city of Washington, D.C., this 31st day of August 1933.



*Henry A. Wallace*  
Secretary of Agriculture.